

# Arizona Court of Appeals

## Pro Bono Program Manual

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## **PROGRAM OVERVIEW**

The Arizona Court of Appeals Pro Bono Program (“Program”) provides pro bono counsel to self-represented parties in appeals and special actions selected by the Court to assist it in resolving those Appeals more effectively. [See [Appendix 1-2](#)] The Program enhances the Court’s review of the cases and offers attorneys a valuable learning experience while providing representation to self-represented litigants.

The goal of the Program is to provide pro bono counsel to self-represented parties in cases selected by the Court in which briefing and argument by counsel would benefit the Court’s consideration. Each case selected for the Program has been screened by a staff attorney, a judge, or a panel of judges. Cases presenting an issue of first impression or some complexity or cases otherwise warranting more developed briefing and oral argument are selected for the Program. Selection of a case for the Program does not constitute an opinion by the Court about the merits of the case.

The Program depends upon the volunteer efforts of attorneys. Pro Bono Attorney Coordinators in Division One and Division Two recruit and coordinate volunteer attorneys for the Program. Once the Court selects a case for the Program, the Pro Bono Attorney Coordinator for the Division locates an attorney for the case. Except for appointments for purposes of settlement conferences or for briefing on a

substantive motion, the Court usually will grant a request for oral argument in cases selected for the Program.

### **SELECTION OF APPEALS FOR THE PROGRAM**

A significant percentage of non-criminal appeals filed in the Arizona Court of Appeals have at least one party who is self-represented.

A case may be selected for participation in the Program at any time. The Court typically identifies candidates for the Program (1) during the court's initial jurisdictional review, (2) during motion practice, or (3) after the matter has been assigned to a merits panel for resolution. A case may be identified as a candidate for the Program by a staff attorney, an individual judge, or a panel of judges.

A self-represented party may also request that the Court consider an appeal for the Program. [See Appendix 3] The party making the request must file the Court's Request to Participate in Pro Bono Program [see Appendix 4] in the relevant case. The Court will review the Request and the record to determine whether the case is appropriate for the Program. Only cases selected by the Court will be placed in the Program. The Court does not allow parties to request that it consider special actions for inclusion in the Program.

Direct criminal and most post-conviction relief appeals are not eligible for the Program because the appellants in those cases are entitled to appointed counsel. Similarly, juvenile appeals in which the parties are entitled to appointed counsel are not included in the program.

## **APPOINTMENT OF COUNSEL**

Once the Court issues an order placing a case in the Program, the Court Pro Bono Coordinator (“Court PBC”) will contact the Pro Bono Attorney Coordinator (“PBA Coordinator”) for the Division in which pro bono counsel is to be appointed and make available briefs and other case information, including, where possible, relevant portions of the record on appeal. The PBA Coordinator then checks for conflicts. If a conflict exists, the PBA Coordinator will advise the Court PBC of that fact and will have no further involvement with the process of appointing pro bono counsel. If no conflict exists, the PBA Coordinator will contact potential pro bono counsel. Potential pro bono counsel then checks for conflicts. If a conflict exists, potential pro bono counsel will advise the PBA Coordinator and decline the potential appointment. If no conflict exists, potential pro bono counsel will familiarize themselves with the issues on appeal, the history of the case and the parties involved. Pro bono counsel must be authorized to undertake such legal representation in Arizona.

In most cases, every attempt will be made to appoint pro bono counsel from the same Division in which the case will be argued. If no pro bono counsel is available for a given case in a Division, the PBA Coordinator will contact the PBA Coordinator from the other Division to locate available pro bono counsel to handle the case.

If pro bono counsel determines that no arguable basis exists for an appeal, pro

bono counsel may decline the appointment and must advise the PBA Coordinator of that declination. If a PBA Coordinator has been unable to locate pro bono counsel who will accept the appointment within the time allocated in the Order Placing Case in Court's Pro Bono Program and Staying Appeal, the PBA Coordinator must notify the Court PBC.

Once a volunteer attorney accepts a pro bono appointment for a case, after client consultation and consent to the representation, the attorney will send a letter to the client outlining the terms of the representation agreement to obtain the client's written consent. The attorney will then file a notice of appearance and, in cases that already have been briefed, will state whether replacement briefing or supplemental briefing will be submitted. The Court encourages the submission of replacement briefing rather than supplemental briefing. The Court PBC will issue an order appointing pro bono counsel and establishing a briefing schedule. Where appropriate, pro bono counsel may request that the case be included in the court's Settlement Conference Program.

Pro bono counsel who has filed a notice of appearance may move to withdraw as counsel based on any of the established grounds for doing so. Such a motion will be freely granted. If leave to withdraw is granted, absent extraordinary circumstances, no other pro bono counsel will be appointed and the Court will remove the case from the Program.

## **PRO BONO ATTORNEY COORDINATORS**

Each Division has a PBA Coordinator who recruits volunteer attorneys who are willing and available to serve as pro bono counsel in the Program. The PBA Coordinator maintains the current list of volunteers and identifies individual attorneys willing to accept specific appointments. The PBA Coordinators and their contact information is provided below. The PBA Coordinators recruit volunteers through a variety of methods including word of mouth, advertisements or announcements in bar association newsletters or events, and otherwise. Attorneys may also volunteer for the Program by completing the Attorney Sign-up Form and submitting it to a PBA Coordinator. [See Appendix 5]

The limited scope of the representation of a litigant on a case is intended to be attractive as a manageable pro bono commitment. In addition, the Court's commitment to hearing oral argument in these cases and the prescreening of the case selected for the Program are intended to provide strong incentives for participation.

### **SCOPE OF APPOINTMENT**

The Court will only appoint pro bono counsel to represent the party for purposes of the selected case. Accordingly, the appointment includes only the handling of the case and the drafting of a motion to reconsider where requested by the client, but does not include the preparation and filing of a petition for review by the Arizona Supreme Court or any other proceedings in any other court or agency unless specifically ordered by this Court or separately agreed upon between the pro bono counsel and the client.

The Court of Appeals does not reimburse parties or pro bono counsel for attorneys' fees or any expenses incurred in participating in the Pro Bono Program. Shifting of attorneys' fees and taxable costs may be available to prevailing parties and pro bono counsel under applicable statutes and rules to the same extent as retained counsel, provided procedural requirements for such requests are met.

### **CONTACT INFORMATION**

- **Division One Pro Bono Attorney Coordinators:**

Eric Fraser, Esq.  
Josh Bendor, Esq.  
Osborn Maledon P.A.  
2929 N. Central Avenue, 21st Floor  
Phoenix, Arizona 85012-2793  
(602) 640-9000  
Email: efraser@omlaw.com  
Email: jbendor@omlaw.com

- **Division Two Pro Bono Attorney Coordinator:**

Andrew M. Jacobs, Esq.  
Snell & Wilmer, L.L.P.  
One South Church Avenue, Suite 1500  
Tucson, Arizona 85701-1630  
(520) 882-1207  
Email: ajacobs@swlaw.com

Appendix 1 – Administrative Order 2014-04

Appendix 2 – Administrative Order 2020-01

Appendix 3 – Administrative Order 2020-06

Appendix 4 – Request to Participate in Pro Bono Program

Appendix 5 – Attorney Sign-up Form